IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 16315 of 2004

Between:

Smt.Yamsani Chandrakala, w/o Krishna Murthy,
Damarakunta Village, Mulugu Mandal, Medak District.

..... PETITIONER

AND

1 The Joint Collector, Medak District at Sangareddy,
Medak District.
2 The Revenue Divisional Officer, Siddipet Division at Siddipet,
Medak District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the proceedings No.B/695/2004 dt.1-7-2004 issued by respondent is illegal, arbitrary and set aside the same

Counsel for the Petitioner: MR.BOLLAM LINGAIAH

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following**:**

ORDER:

This writ petition is filed seeking a declaration that the proceedings of the second respondent dated 01.07.2004, is arbitrary and illegal.

The petitioner is an authorised dealer in respect of Fair Price Shop of Damarakunta village, Mulugu Mandal, Medak District. Her authorisation was cancelled by the Revenue Divisional Officer, Siddipet Division, by proceedings dated 22.04.2002. Against the said order, the petitioner preferred an appeal before the Joint Collector, Medak, contending, *inter alia*, that the order of cancellation without affording any opportunity to explain the allegations is arbitrary and illegal. The Joint Collector, Medak, disposed of the appeal by order dated 28.11.2003 with a direction to the Revenue Divisional Officer to pass appropriate orders afresh within a period of one month after considering the explanation submitted by the petitioner and after affording an opportunity of hearing to the petitioner. However, the Revenue Divisional Officer failed to complete the enquiry within the time fixed by the Joint Collector. Hence, the petitioner filed W.P.No.4600 of 2004, which was disposed of by this Court by order dated 12.03.2004 directing the Revenue Divisional Officer to dispose of the case after giving due opportunity to the petitioner within a period of four weeks. Inspite of the same, the Revenue Divisional Officer did not complete the enquiry and consequently the petitioner was constrained to file W.P.No.14386 of 2004. The said writ petition was disposed of by this Court by order dated 23.08.2004 with a direction to the Revenue Divisional Officer to complete the enquiry in terms of the orders of the Joint Collector dated 28.11.2003 within a

period of four weeks, failing which, the order of cancellation shall stand cancelled.

After the said writ petition was disposed of, on 27.08.2004 the petitioner was served with the order of the Revenue Divisional Officer dated 01.07.2004 stating that in the enquiry it has been established that the petitioner has contravened the provisions of the Essential Commodities Act, 1955 and further, a criminal case is also booked against her and, therefore, her authorisation has been cancelled and she is removed from the dealership with immediate effect. The said order is under challenge in this writ petition.

The learned counsel for the petitioner contends that the order of the Revenue Divisional Officer, which on the face of it is anti-dated is arbitrary and illegal since before passing the said order, no enquiry has been conducted by the Revenue Divisional Officer. The learned counsel also contends that inspite of the specific directions of the Joint Collector as well as this Court, no opportunity of being heard was afforded to the petitioner before passing the impugned order and therefore the same is liable to the set aside.

Against the impugned order of cancellation an alternative remedy of appeal is available under the Statute by way of appeal and admittedly the petitioner has already preferred an appeal before the first respondent against the impugned order dated 01.07.2004. Since the statutory appeal is pending before the competent authority, I am not inclined to express any opinion on merits. Instead, I deem it appropriate to dispose of the writ petition with a direction to the first respondent to consider the application for stay filed by the petitioner in the said appeal against the order dated 01.07.2004 and to pass appropriate orders in accordance with law as expeditiously as possible, preferably within a period of one week from the date of receipt of a copy of this order.

Accordingly, the writ petition is disposed of. No costs.

13.09.2004

Note: Furnish CC in two days

(b/o)

VGB

To

1 The Joint Collector, Medak District at Sangareddy,
Medak District.
2 The Revenue Divisional Officer, Siddipet Division at Siddipet,
Medak District.

3 2CCs to the Government Pleader for Civil Supplies, High Court

Buildings, Hyderabad (OUT)

4 2CD copies